IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.6514 of 2003

Between:

M/s Anand Solvex Limited,

Regd. Office: 201, 202 Happy Trade Centre,

62, S..D. road, Secunderabad,

rep.by its Managing Director,

A.Rajesh, S/o Krishna Rao,

29 years .... PETITIONER

AND

1. State Bank of Hyderabad,

   Gunfoundry, Hyderabad,

   Rep. by its Managing Director

2. State Bank of Hyderabad, Overseas Branch

Kautilya, 6-3-652 Somajiguda,

Hyderabad-82

Rep. by its Asst. General Manager. .....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, declaring the action of the respondent in issuing the notice in Ref.No.OSBH/ADV/ dt. 8-2-2003 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as arbitrary, illegal and without jurisdiction and consequently direct the respondent not to proceed further, pursuant to the said notice.

Counsel for the Petitioner :Sri S.ASHOK ANAND KUMAR

Counsel for the Respondents : Sri Ch.RAVINDRA BABU

The Court made the following :

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ORDER: (Per Hon'ble the Chief Justice)

This writ petition was initially disposed of on

16-03-2004 when it was brought to the notice of the Bench that the petitioner company being 'sick company' within the meaning of Section 3(1)(o) of the Sick Industrial Companies (Special Provisions) Act, 1985, reference was made to the Board for Industrial and Financial Reconstruction (BIFR), and the same was rejected against which appeal was filed before Appellate Authority for Industrial and Financial Reconstruction (AAIFR) and subsequently again the reference was made to the BIFR which was registered and BIFR had taken cognizance of the same. Since there was no response from the bank, writ petition was allowed reserving liberty to the respondent bank to approach BIFR for appropriate leave and till then, it was directed that respondent bank shall stand restrained from enforcing the impugned notice dated 08-02-2003.

The said order was recalled on statement made by the learned counsel for respondents that reference already stood rejected. After the order has been recalled, learned counsel for the petitioner took time and has now filed detailed affidavit that as against the order of BIFR, appeal has been preferred before AAIFR, which has been admitted for hearing. Reliance is placed upon the letter dated 30-09-2004 received by the petitioner today by fax. Relying upon the statement of the learned counsel for the petitioner that since reference is already pending before AAIFR, till leave is obtained by the respondent bank, the bank cannot proceed against the assets of the petitioner.

Accordingly, the writ petition is allowed with liberty reserved to the respondent bank for appropriate leave and till leave is obtained, the respondent bank is restrained from enforcing the impugned notice dated 08-02-2003. In case ultimately the appeal preferred by the petitioner is dismissed, it will be open to the respondent bank to pursue its remedy against the petitioner including enforcing the notice dated 08-02-2003

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DEVINDER GUPTA, C.J.

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C.V.RAMULU, J

30-09-2004

bsc

To

1. The Managing Director,

State Bank of Hyderabad,

Gunfoundry, Hyderabad,

2. The Asst. General Manager,

State Bank of Hyderabad, Overseas Branch

Kautilya, 6-3-652 Somajiguda,

Hyderabad-82

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